

ORDINANCE 666 - 2010

AN ORDINANCE AMENDING THE CITY OF READING CODIFIED ORDINANCES CHAPTER 1 ADMINISTRATIVE CODE, PART 5 BOARDS, DEPARTMENTS, COMMISSIONS, COMMITTEES, AND COUNCILS, LETTER M MINORITY BUSINESS PROCUREMENT BOARD, SECTION 1-599.34 MINORITY BUSINESS PROCUREMENT BOARD BY ADDING LETTER NUMBER NINE (9) REMOVAL PROCESS FOR MEMBERS OF THE MINORITY BUSINESS PROCUREMENT BOARD

NOW, THEREFORE, THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

SECTION 1: Amending the City of Reading Codified Ordinances Chapter 1 Administrative Code, Part 5 Boards, Departments, Commissions, Committees, and Councils Letter M Minority Business Procurement Board Section 1-559.34 Minority Business Board by adding the removal process for members of the Minority Business Procurement Board as follows:

9. Removal of Members - Any member may be removed for misconduct or neglect of duty or for other just cause by a majority vote of Council taken after the member has received fifteen days advance notice of the intent to take such vote. Failure of a member to attend three (3) consecutive regular meetings of the Board will constitute grounds for immediate removal from the Board by City Council. Failure of a member to attend at least 50% of the regular meetings of the Board in a calendar year will constitute grounds for immediate removal from the Board by City Council. The Chairperson of the Board shall inform the City Clerk in writing when a member has failed to comply with this attendance policy. Following such notification, City Council may vote to remove the member and seek applicants to fill the vacant position.

SECTION 2. All other parts of the Ordinance remain unchanged.

SECTION 3. This Ordinance shall be effective in ten (10) days, in accordance with Charter Section 219.

Adopted

Sept 13, 2010

Council President

Attest:

City Clerk

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original Ordinance passed by the Council of the City of Reading, on the 13 day of Sept, A. D. 2010. Witness my hand and seal of the said City this 13 day of Sept, A. D. 2010.

CITY CLERK

Submitted to Mayor: _____

Date: 9/15/10

Received by the Mayor's Office: _____

Date: _____

Approved by Mayor: _____

Date: 9/20/10

Vetoed by Mayor: _____

Date: _____

M. Establishing a Minority Business Procurement Advisory Board.

§1-599.31. Policy.

It is the policy of the City, State and Federal governments to foster an environment of inclusion in which all businesses are free to participate in business opportunities and to flourish without the impediments of discrimination. Businesses participating in these contracts shall do so on a fair and equitable basis. Vendors on these contracts shall not discriminate against any business because of race, color, religion, national origin, sex, sexual orientation or disability.
(Ord. 56-2005, 9/12/2005)

§1-599.32. Definitions.

For the purpose of this Chapter, the following terms shall have the following respective definitions:

Agency - any City office, department, board or commission, but not limited to, including the Council of the City of Reading. It shall also mean all legal entities which either:

- (1) Receive funds, directly or indirectly, from the City, State or Federal governments.
- (2) Have entered into continuing contractual or cooperative relationships with the City, including quasi-public agencies, hospitals, schools, etc.
- (3) Operate under legal authority granted to them by City ordinance.

City Contracts - all City contracts, whether competitively bid or negotiated, including but not limited to, any construction contract with a total value in excess of \$10,000 which:

- (1) Is paid for in whole or in part with City, State or Federal funds.
- (2) Is financed either wholly or partially by State or Federal funds which are administered by the City.
- (3) Is funded in whole or in part by Financial Assistance (See 6 below).

Disabled person - a person who has a physical or mental impairment which substantially limits one or more of his or her major life activities or has a record of such impairment. Major life activities shall mean functions, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

Disadvantaged Business Enterprise or "DBE" - any small business enterprise:

- (1) Which is at least 51% owned and controlled by one or more socially and economically disadvantaged individuals.
- (2) In the case of any publicly owned business, one in which at least 51% of the stock is owned by one or more socially and economically disadvantaged individuals, associations or groups; provided, however, that a reputable presumption shall exist that any person that has received

more than \$5,000,000 in three consecutive years of contract work from the City is not a DBE, and; provided further, that any previous certification of any such person as a DBE shall be re-evaluated pursuant to regulations to be promulgated by the MBEC.

Disparity analysis - in the City of Reading the level of DBE's are underutilized in the performance of various types of contracts.

Financial assistance - any grant, loan, incentive or abatement provided by, or with the authority or approval of, the City or a City-related agency, including but not limited to bond financing subsidies, Tax Increment Financing aid, industrial development bonds, use of the power of eminent domain, land or property acquisition, Community Development Block Grant loans or grant, airport revenue bonds, Enterprise Zone designations, and aid from any Federal, State or City or other similar agencies.

Individual - a natural person.

Minority business procurement advisory board (MBPAB) - the entity within the Department of Finance responsible for the development, implementation, monitoring and enforcing the procedures and goals set forth in this Chapter.

Minority person - a person who is a citizen or lawful permanent resident of the United States and who is:

- (1) African American (a person having origins in any of the black racial groups in Africa).
- (2) Hispanic American (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race).
- (3) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands).
- (4) Native American (a person having origins in any of the original peoples of North America).

Person - a corporation, partnership or association, or any combination thereof, as well as a natural person.

Small business enterprise - a business which is independently owned and operated and which is not dominant in its field of operation as further defined in the Small Business Size Regulations, adopted by the U.S. Small Business Administration and published in the U.S. Code of Federal Regulations, including the industry size standards set forth in the table contained therein, which regulations are incorporated herein, and made a part hereof by reference.

Socially and economically disadvantaged individuals - those who have either been subjected to racial, sexual or ethnic prejudice because of their identity as a member of a group or to differential treatment because of their disability without regard to their individual qualities, and whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business who are not socially disadvantaged.

(1) In determining who are Socially and Economically Disadvantaged Individuals, the Minority Business Procurement Advisory Board may make a reputable presumption that all minority persons, all women and all disabled persons shall be so classified.

(2) The Minority Business Procurement Advisory Board, in determining whether an individual shall be classified as a Socially and Economically Disadvantaged Individual, shall also consider, among other things the extent of the liquid assets and net worth of such socially disadvantaged individuals.

MCA - is the Minority Contractors Association.

Women Business Enterprise or "WBE" - any Women Business Enterprise:

(1) Which is at least 51% owned and controlled by one or more socially and economically disadvantaged women.

(2) In the case of any publicly owned business, one in which at least 51% of the stock is owned by one or more socially and economically disadvantaged women, associations or groups; provided, however, that a reputable presumption shall exist that any person that has received more than \$5,000,000 in three consecutive years of contract work from the City is not a WBE, and; provided further, that any previous certification of any such person as a WBE shall be re-evaluated pursuant to regulations to be promulgated by the MBEC.

Age - includes any person forty and above and shall also include any other person so protected by further amendment to the Federal Age Discrimination in Employment Act.

Aggrieved person - includes such person or persons who believe that they have been injured or will be injured by a discriminatory employment act or practice that has occurred or is about to occur.

Discriminate and discrimination - includes any difference in treatment based on race, color, religion, ancestry, national origin, age, sex, familial status, handicap or previous filing of a complaint of discrimination.

Familial status - means one or more individuals, who have not obtained the age of eighteen years being domiciled with:

(1) A parent or another person having legal custody of such individual or individuals.

(2) The designee of such parent having such custody, with the written permission of such parent or other person.

(3) Any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years.

Handicap - with respect to a person, a physical or mental impairment which substantially limits one or more major life activities; a record of having such an impairment; or being regarded as having such an impairment.

Non job related handicap or disability - any handicap or disability which does not substantially interfere with the ability to perform the essential functions of the employment which a handicapped person applies for, is engaged in, or has been engaged in. Un-insurability or increased cost of insurance under a group or employee insurance plan does not render a handicap or disability job related.

(Ord. 56-2005, 9/12/2005)

§1-559.33. Minority Business Procurement Advisory Board.

1. **Stated Mission.** To advise administration on issues and policies concerning enhance participation, to the maximum extent feasible, in employment practices at all levels, included but not limited to apprenticeship programs, training programs, etc., for MBEs, DBEs, WBEs, and the lower to moderate income residents, etc. within the distressed areas as mandated by City, State and Federal governments regulations.

2. **Meeting Dates.** First week of the month.

3. **Appointment by.** Mayor (usually with recommendations from sitting Board members and the Minority Contractors Association) with the approval of City Council.

4. **Length of Term.** 2 years

5. **Accountability to City.** Reports

6. **Revenue Source.** City General Fund.

7. **Number of Board Members.:** Seven members shall be appointed including but not limited to the following: 1 Rep. Housing Authorities Sector, 2 Reps. Minority Contractors Association, 1 Rep as Chamber of Commerce Designee, and 3 community members-at- Large. Representation of members of the Board should reflect the demographics of the City.

(Ord. 56-2005, 9/12/2005)

§1-599.34. Minority Business Procurement Advisory Board.

1. There is hereby established in the Office of the Mayor, a Minority Business Procurement Advisory Board to advise the Administration on policies, procedures and practices to enhance participation of MBEs, DBEs, WBEs, SBEs and the lower to moderate income residents, etc. in procurement of City contracts and all employment practices.

2. The Board shall consist of seven members each to be appointed by the Mayor for a 2-year term, with City Council approval. The members of the Board may be reappointed to successive terms of office. Each member of the Board shall continue to serve after their term until their successor has be qualified and appointed. Appointments of new term members shall be made 60 days prior to the expiration of the current term. Vacant seats on the Board shall be filled within 90 days. Three members-at-large from the community will also serve on the Board.

3. The Board shall elect one of its members as chairman and may elect such other officers as it may deem necessary. The chairman may with the approval of the Board, appoint such committees as may be necessary to carry out the powers and duties of the Board, and the members may authorize such committees to take any necessary action for the Board.

4. The Board shall adopt such rules and regulations for its own organization, operations and procedures as the Board shall deem necessary to administer, implement and enforce this Part 5M.

5. The Board shall hold at least four public meetings during each calendar year. Four members of the Board shall constitute a quorum for the transaction of business, and a majority vote of those present at any meeting shall be sufficient for any official, action taken by the Board. Members are required to vote on all issues. However, in case of a valid absence, approved by the chairman, the members is required to vote either by abstaining or via Proxy, whichever is deemed appropriate. Members who have failed to fulfill their duties, included but not limited to two missed votes, shall first receive a warning. However, further violation of their duties will render an immediate resignation.

6. The members of the Board shall serve without compensation but upon resolution of Council, they may be reimbursed for all necessary expenses incurred in the performance of their duties in accordance with appropriations made by Council.

7. In the event that no members shall not be able and available to exercise any of or fulfill any of the duties of the Board, the Mayor may appoint one or more members temporarily, with the approval of City Council, to assume the powers and/or fulfill the duties of the Board. Such appointment maybe limited in duration of term and in scope of the powers and duties of any members so appointed.

8. In the event that a member wishes to resign, they must do so in writing to the Chairman of the MBPAB. A copy of this letter should be provided to all members for information purposes only.

(Ord. 56-2005, 9/12/2005)

9. Removal of Members - Any member may be removed for misconduct or neglect of duty or for other just cause by a majority vote of Council taken after the member has received fifteen days advance notice of the intent to take such vote. Failure of a member to attend three (3) consecutive regular meetings of the Board will constitute grounds for immediate removal from the Board by City Council. Failure of a member to attend at least 50% of the regular meetings of the Board in a calendar year will constitute grounds for immediate removal from the Board by City Council. The Chairperson of the Board shall inform the City Clerk in writing when a member has failed to comply with this attendance policy. Following such notification, City Council may vote to remove the member and seek applicants to fill the vacant position.

§1-599.35. Powers and Duties of Board.

The Minority Business Procurement Advisory Board shall have no powers or duties but shall serve in an advisory capacity to the Administration only.

(Ord. 56-2005, 9/12/2005)

§1-599.36. City Contracts.

All contracts of the City and its contracting agencies shall encourage the contractor to comply with the policy of this article to enhance the participation of MBEs, DBEs, WBEs, SBEs and the lower to moderate income residents, etc., therewith and to comply with any State or Federal law or laws or regulations relating to unlawful employment practices in connection with any work to be performed there under and shall require the contractor to include a similar provision in all subcontracts.

(Ord. 56-2005, 9/12/2005)

§1-599.37. Procedure.

1. The MBPAB, or any subsequent successor, shall advise the administration in accord with the policy set forth herein and in so doing shall also:

A. Advise a procedure to ensure the City is outreaching and encouraging to MBEs, DBEs, WBEs, SBEs and lower-to-moderate income businesses to participate in procurement.

B. Advise a procedure to ensure the City is outreaching and encouraging to MBEs, DBEs, WBEs, SBEs and lower-to-moderate income businesses to participation in City contracts as subcontractors.

C. Ascertain and advise the Administration, within 90 days of the enactment of this Part, the total number of MBEs, DBEs, WBEs, SBEs and lower-to moderate income businesses in the Berks County Standard Statistical Area.

D. Maintain a listing of all such residents and make it available to all agencies.

E. Advise a process to ensure all majority contractors are aware of the existence and identity of MBEs, DBEs, WBEs, SBEs and lower-to-moderate income businesses.

F. Survey such businesses to ascertain how to establish accessibility of MBEs, DBEs, WBEs, SBEs and lower-to-moderate income businesses to the City's procurement process and report findings to Administration and Council.

G. Survey such businesses to ascertain how to establish accessibility of MBEs, DBEs, WBEs, SBEs and lower-to-moderate income businesses to participation in City contracts as subcontractors and report findings to Administration and Council.

H. Report to the Administration and Council the MBEs, DBEs, WBEs, SBEs and lower to-moderate income businesses on bi-annual basis (every 6 months) of participation in City contracts and its procurement process.

I. Report to the Administration and Council the MBEs, DBEs, WBEs, SBEs and lower to-moderate income businesses on bi-annual basis (every 6 months) of participation in City contracts as subcontractors.

J. Advise Administration and Council of percentage of MBEs, DBEs, WBEs, SBEs and lower-to-moderate income businesses participation in City contracts and its procurement process.

K. Advise Administration and Council of percentage of MBEs, DBEs, WBEs, SBEs and lower-to-moderate income businesses participation in City contracts as subcontractors.

L. Advise Administration and Council of appropriate policies and procedures for aid in monitoring and obtaining Board's mission and policy.

2. The Director of Finance, in conjunction with the MBPAB shall, assemble and furnish to such procurement records and documents of the various agencies, cooperative relationships, etc. as are necessary for the monitoring MBEs, DBEs, WBEs, SBEs and lower-to-moderate income businesses participation in City contracts and its procurement process and subcontractors.
(Ord. 56-2005, 9/12/2005)